
Fourth Session Fifth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 9 of 1999

[L.S.]

AN ACT to amend the National Insurance Act, Chap. 32:01

[Assented to 30th April, 1999]

ENACTED by the Parliament of Trinidad and Tobago as ^{Enactment} follows:—

1. This Act may be cited as the National Insurance ^{Short title} (Amendment) Act, 1999.

Commencement

2. This Act shall come into force on 3rd May, 1999.

Section 2 amended
Chap. 32:01

3. The National Insurance Act (hereinafter referred to as "the Act") is amended in section 2 as follows—

(a) in subsection (1)—

(i) by deleting the definition of the words "Board of Management" or "Board" and substituting the following definitions in alphabetical order—

"Board" means the National Insurance Board of Trinidad and Tobago established by section 3;

"contribution year" means the period of fifty-two weeks or fifty-three weeks beginning with the first Monday in July in any year and ending on the Sunday immediately before the first Monday in July of the succeeding year;

"due date" means the last day of the month;

"paid apprentice" means a person who enters into a contract of apprenticeship or training for which remuneration of eighty dollars or more per week is paid by the employer;

"termination of employment" means the day on which the employment actually comes to an end, whether such termination is in

accordance with the terms of the contract or not and whether or not the employment is to be resumed at a later date;

“unpaid apprentice” means a person who enters into a contract of apprenticeship or training for which remuneration less than eighty dollars per week is paid by the employer.”;

- (ii) by inserting in the definition of the words “employed person” after the word “means” the words “a paid apprentice or”;

(b) in subsection (2) by—

- (i) deleting in paragraph (a) the words “if, but only if the insured person” and substituting the words “if the insured person”; and
- (ii) inserting the following paragraph after paragraph (a):

“(aa)(i) where no nomination of a person as a beneficiary has been made the Executive Director may treat the single woman or widow or single man or widower referred to in paragraph (2)(a)(i) or (2)(a)(ii) as the wife or husband of the insured as the case may be, provided that she or he lived

with the insured person as his wife or her husband for a minimum period of three years immediately preceding death;

(ii) for the purposes of this paragraph the Executive Director may require such evidence as he considers necessary to satisfy himself of the period referred to in subparagraph (i);

(iii) in paragraph (b) by deleting the words "paragraph (a)" and substituting the words "paragraphs (a) and (aa)(i)";

(iv) in paragraph (c) by deleting the words "paragraph (a)" and substituting the words "paragraphs (a) and (aa)(i)".

Section 3 amended

4. The Act is amended in section 3 by—

(a) repealing subsection (1) and substituting the following—

"Establish-
ment and
incorporation
of the Board

3. (1) There is hereby established for the purposes of this Act, a National Insurance Board of Trinidad and Tobago (hereinafter referred to as "the Board") which shall be a body corporate.";

(b) inserting the following subsection after subsection (9):

“ (10) All things done or omitted to be done by the Board of Management before the coming into force of this Act shall for all purposes be deemed to have been done or omitted to be done for and on behalf of the National Insurance Board of Trinidad and Tobago.”

5. The Act is amended by inserting after section 4 Section 4A inserted the following new section—

“Exemption
from liability

4A. (1) No action, suit, prosecution or other proceedings shall be brought or instituted against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this section, the Board shall be liable to the extent that it would be as if the said member was a servant or agent of the Board.”

6. The Act is amended in section 8 by inserting after Section 8 amended subsection (1) the following:

“ (1A) The Board may exercise and perform such powers and functions as may be approved by the Minister by Order subject to affirmative resolution of Parliament.”

7. The Act is amended in section 13 by inserting after Section 13 amended subsection (2) the following:

“ (2A) The report referred to in subsection (2) shall include the—

(a) number of contributors and beneficiaries in the National Insurance Scheme;

- (b) contribution income collected;
- (c) fixed expenditure incurred in respect of the administration of the National Insurance System;
- (d) composition of the investment portfolio;
- (e) yield on investments; and
- (f) a statement of any financial or commercial arrangement with subsidiaries or associated companies.”.

Section 14 amended

8. The Act is amended in section 14 by deleting subsections (1) and (2) and substituting the following:

“ (1) The Board may appoint on such terms and conditions as it thinks fit an Executive Director, a Secretary, a Chief Financial Officer and such other officers and employees as may be necessary and proper for the due and efficient performance by the Board of its duties under this Act.

(2) Subject to the approval of the Minister, the Executive Director shall receive a salary and allowances as may be determined by the Board; and no other officer or employee shall receive salary or allowance higher than that of the Executive Director.

Section 22 amended

9. The Act is amended in section 22(1) by:

(a) deleting in paragraph (b) the words “(including payments for the maintenance of the Pension Scheme established under section 17)”;

(b) deleting paragraph (d) and substituting the following:

“(d) any other expenditure or losses or write off identified by the Board and subject to the approval of the

Minister of Finance which are properly chargeable to Revenue Account.”;

- (c) deleting the words “nine and one half per cent of contribution revenue of the Board” and substituting the words “the amount fixed by the Minister not exceeding the recommendations of the actuary arising out of the periodic review of the National Insurance System”.

10. The Act is amended by repealing section 24 and substituting the following: Section 24 amended

“Investment
Committee

24. (1) There shall be an Investment Committee consisting of:

- (a) the Chairman of the Board as Chairman;
- (b) the Executive Director;
- (c) the Chief Financial Officer who shall be an *ex officio* non voting member;
- (d) three other members of the Board nominated respectively by the Minister, the Directors who are nominees of Business and the Directors who are nominees of Labour;
- (e) three other persons not members of the Board nominated respectively by the Minister, the Directors who are nominees of Business and the Directors who are nominees of Labour.

(2) Subject to section 23 the Investment Committee shall advise on the investment policy of the Board and carry out such other duties and responsibilities as may be delegated by the Board.

(3) Subject to subsection (4) the Investment Committee shall meet as often as necessary and may regulate the procedure of the meeting and shall be able to act notwithstanding any vacancy.

(4) The quorum of the Investment Committee shall be four members including three persons representing the Government, Business and Labour respectively.

(5) In the event of his inability to attend any meeting of the Investment Committee the Chairman may nominate the Deputy Chairman of the Board to preside in his stead.”

Section 29 amended

11. The Act is amended in section 29:

(a) by repealing in subsection (2)—

(i) paragraph (a) and substituting the following:

“(a) employment in respect of which remuneration is less than eighty dollars a week”;

(ii) Paragraph (b);

(b) by inserting after subsection (2) the following new subsection—

“(3) Notwithstanding subsection (2)(a), a person who is employed at 2nd May, 1999 and continues in such employment on and after 3rd May, 1999 and earns less than eighty dollars per week shall be regarded as an employed person or an insured person for the purposes of this Act and such employed person shall in accordance with the Act pay contributions as specified in Class I in the Second Schedule”.

Section 30 amended

12. The Act is amended by repealing section 30 and substituting the following section:

“Registration and penalty

30. (1) Subject to this section, every employer shall make an application in the prescribed form—

(a) for registration as an employer within fourteen days of employing his first employee;

(b) for registration of each employed person and each unpaid apprentice of whom he is the employer within fourteen days of employment if such employed person or unpaid apprentice does not provide a National Insurance Registration Number within seven days of employment.

(2) Every employed person other than a self-employed person and every unpaid apprentice shall furnish his employer with the personal particular necessary for the completion of any application for registration within seven days of employment and shall be responsible for the correctness of such particulars.

(3) Every employer shall inform each employed person and each unpaid apprentice of whom he is the employer within twenty-one days of employment whether or not he had applied for registration of such employee or apprentice.

(4) Where the employer fails to apply for registration of an employee or an unpaid apprentice as required under subsection (1)(b) and informs the employee accordingly as required under subsection (3), the employee or the unpaid apprentice shall apply for registration on the prescribed form within twenty-eight days from the date of employment.

(5) Nothing in this section shall apply to a domestic worker or a casual agricultural worker but every such worker

shall, in respect of each employment as such, himself make an application for registration and shall give notice to the Board of any change in such employment.

(6) An employer who fails to apply for registration in accordance with subsection (1) or fails to comply with subsection (3) shall be liable on summary conviction to a fine of five thousand dollars.

(7) An employed person or unpaid apprentice who fails to apply for registration in accordance with subsection (4) or who fails to provide the employer with the complete and correct information required for registration shall be liable on summary conviction to a fine of five hundred dollars.”.

Section 30A inserted

13. The Act is amended by inserting after section 30 the following section—

“National
Insurance
Registration
Card

30A. Every person upon registration as an employed person or unpaid apprentice shall be issued with a National Insurance Registration Card.”.

Section 32 amended

14. The Act is amended in section 32(1) by inserting after paragraph (d) the following paragraph:

“(e) access any computer and associated apparatus used in connection with the production, delivery or maintenance of records relating to the records of employees, their remuneration and such other particulars as may be relevant to the National Insurance System.”.

15. The Act is amended by inserting after section 32 the following new section: Insertion of new section 32A

"Furnishing of data

32A. (1) Any employee of the Board on being designated by the Executive Director to so do may furnish or disclose any information pertaining to the National Insurance Contribution records of any insured person under this Act to any Governmental Department, Agency or Statutory Body.

(2) Every Director, Officer or other employee of the Board whose services are utilised by the Board shall not communicate to any person not legally entitled thereto any information relating to the affairs of any person having any dealing with the Board or relating to the affairs of the Board or any information furnished by an employer to the Board under any regulation made under this Act.

(3) Any person who acts in contravention of this section shall be liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for one year."

16. The Act is amended in section 36(1) by deleting the words "against loss of earnings occasioned by any" and substituting the words "under this Act in respect". Section 36 amended

17. The Act is amended by inserting after section 38 the following section— Section 38A inserted

"Certificate and penalty

38A. (1) Every employer shall issue his employee within thirty days of termination of employment of such employee a certificate setting out—

- (a) the employee's total insurable wages for the contribution year;
- (b) the total amount of contributions deducted from those wages;

(c) the total amount of contributions paid to the Board; and

(d) the number of contribution weeks covered by those contributions.

(2) A copy of the certificate issued to the employee shall be forwarded to the Board on the same day the certificate is issued to the employee.

(3) An employer who fails to issue the certificate referred to in this section to an employee or fails to forward a copy of such certificate to the Board is liable on summary conviction to a fine of four thousand dollars and to imprisonment for six months.”.

Insertion of new sections 39A and 39B

18. The Act is amended by inserting after section 39 the following sections:

“Statutory trust

39A. An amount of money payable by an employee as a contribution under this Act and deducted by the employer from the salary or wages of his employees shall—

(a) be deemed to be held in trust for the Board by the employer;

(b) not be subject to attachment in respect to any debt or liability of the employer; and

(c) form no part of the assets of the employer in the event of liquidation, assignment or bankruptcy of the employer or his business.

Interest

39B. Where any employer fails to pay the amount of contributions payable by him to the Board under the provisions of this Act by the fifteenth day after the due date, he shall be liable to pay—

(a) a penalty of twenty five per cent of the outstanding sum; and

- (b) interest on the entire sum (penalty and outstanding sum at the rate of fifteen per cent per annum from the sixteenth day of the following month until payment).

19. The Act is amended by inserting after section 45 Section 45A inserted the following section—

“Garnish-
ment

45A. (1) Where the Board believes that any person is indebted to or liable to make a payment to another person and that other person is indebted to the Board for unpaid National Insurance Contributions under this Act, the Executive Director may deliver to the first-mentioned person a demand for payment stating—

- (a) the name of the person indebted to the Board;
- (b) the amount of the debt due to the Board including the rate of interest thereon; and
- (c) where the first-mentioned person is the employer of the person indebted to the Board, the amount demanded for each pay period, being an amount not exceeding one-third of the sum payable to the employee during that period, expressed either as a dollar amount or a percentage of remuneration.

(2) Every person who received a demand for payment under subsection (1) relating to one of his employees shall pay to the Board at the same time as he would pay that employee the amount demanded by the Executive Director or the amount of the employee's indebtedness to the Board

whichever is the lesser, and shall continue to do so on each occasion that the employee is entitled to be paid until the employee's indebtedness to the Board is satisfied.

(3) Every person who receives a demand for payment under subsection (1) relating to some person other than one of his employees shall, if he is indebted to or liable to make a payment to that other person, pay to the Board the amount of his indebtedness or the amount which he is liable to pay to that person or the amount of that person's indebtedness to the Board whichever is the lesser.

(4) Every person who has discharged any liability to a person indebted to the Board under this Act after receiving a demand for payment under subsection (1) without complying with subsection (2) or (3) is liable to pay to the Board an amount equal to the liability discharged or which he was required under subsection (2) or (3) to pay to the Board whichever is the lesser.

(5) The payment of an amount to the Board under subsection (2) or (3) operates as a discharge of any liability of the person making the payment to the person to whom the payment would have been paid, to the extent of the amount paid to the Board.

(6) This section shall have effect notwithstanding the Truck Act."

Chap. 88:07

Section 46 amended

20. The Act is amended in section 46(1) by—

(a) deleting in paragraph (b) the words "and a grant payable during the week of delivery";

- (b) inserting after paragraph (b) the following:
 “(bb) maternity grant that is to say, a payment in the case of the pregnancy or confinement of an insured woman;
- (c) deleting paragraph (c) and substituting the following:
 “(c) invalidity benefit that is to say a payment or periodic payments to an insured person who is likely to remain incapable of work for a period of not less than twelve months where such incapacity is caused otherwise than by way of employment injury”;
- (d) deleting paragraph (g) and substituting the following:
 “(g) survivor’s benefit, that is to say a payment or periodical payments more particularly described in subsection (2) made in respect of an insured person who dies otherwise than by way of employment injury;
- (h) a claim for survivor’s benefit shall not be paid where it is made in respect of a deceased insured person who was paid a retirement grant or had attained retirement age and would have been entitled to a retirement grant had he made a claim for benefit or would have been paid a retirement grant in respect of his claim for retirement benefit had he survived.”.

21. The Act is amended by inserting after section 49 Section 49A inserted the following section—

“Recovery of
 excess
 payment

49A. Where any person is paid any benefits in excess of the amount to which that person is entitled under this Act the

Board shall be entitled to recover without prejudice to any other remedy, such excess by means of deductions from any other benefits payable to such person.”.

Section 54 amended

22. The Act is amended in section 54—

- (a) by deleting in subsection (1) the words “Tables A, B1, B2, C and D” and substituting the words “Tables A1, B1, C1, and D1”;
- (b) by deleting in subsection (2) the word “all”.

Insertion of section 54A

23. The Act is amended by inserting after section 54 the following new section—

“Benefit in accordance with earnings class

54A. (1) Insured persons who are in receipt of sickness or maternity benefits on 2nd May, 1999 and who continue to be eligible for such benefit after that date shall with effect from 3rd May, 1999 be paid at the increased rate of benefit in accordance with Table A2 in the Third Schedule.

(2) Where an insured person qualifies for benefit on or after 3rd May, 1999 and—

- (a) payment is to commence on or after that day; or
- (b) payment commences with respect to sickness or maternity benefit, within thirteen and nineteen weeks respectively from that day,

the rate of contribution which are to be used to determine the average rate in accordance with section 54(2) of the Act shall—

- (i) where contributions were paid prior to 11th August, 1980 be converted to rates in effect on 3rd May, 1999 in accordance with Table B of the Second Schedule; and

(ii) where contributions were paid after 11th August, 1980 be converted to rates in effect on 3rd May, 1999 in accordance with Table C of the Second Schedule.

(3) Persons who qualified for the receipt of retirement, invalidity or survivor benefit prior to August 11, 1980 and who continue to be eligible to receive such benefit on or after 3rd May, 1999 shall be paid increased benefit in accordance with Tables B2(A) and C2(A) from 3rd May, 1999.

(4) Persons who qualified for the receipt of retirement, invalidity, or survivor benefit after 11th August, 1980 and who continue to be eligible to receive such benefits on or after 3rd May, 1999 shall be paid increased benefit in accordance with Tables B2(B) and C2(B) from 3rd May, 1999.

(5) Persons who qualified for the receipt of injury disablement or death benefit prior to 3rd May, 1999 and continue to be eligible to receive such benefit on or after 3rd May, 1999 shall be paid increased benefit in accordance with Table D2 from 3rd May, 1999”.

23. The Act is amended in section 57 by deleting Section 57 amended subsection (1) and substituting the following:

“ (1) Where it is desired to harmonise existing pension fund plans with the system of National Insurance such harmonisation shall be effected in accordance with regulations made by the President in that behalf.”

63 amended **25.** The Act is amended in section 63 by deleting subsection (4) and substituting the following:

“ (4) Nothing in this section shall be construed as preventing the Board from recovering any sums due to it by means of civil proceedings.”.

65 amended **26.** The Act is amended in section 65—

(a) by deleting subsection (5);

(b) in subsection (6)—

(i) by deleting the words “Executive Director” and substituting the word “Board”;

(ii) by deleting the words “the Board” and substituting the word “it”.

n 65A inserted **27.** The Act is amended by inserting after section 65, the following section:

“Liability of
body
corporate

65A. (1) Where an employer being a body corporate fails to pay the Board any sum which such employer has been ordered to pay by the Courts, every director and manager of such body corporate, at the time the body corporate was required to pay that amount, is jointly and severally liable together with the body corporate to pay the amount, interest and penalties thereto to the Board.

(2) No director or manager shall be liable for the debt where he exercised a degree of care, diligence and skill to prevent the failure to pay, which a prudent person would have exercised in comparable circumstances.

(3) Nothing in this section shall be construed as preventing the Board from recovering any sums due to it by means of civil proceedings.”.

28. The Act is amended in section 66 by repealing Section 66 amended subsection (1) and substituting the following new subsection:

“ 66. (1) All sums due to the Board including sums due and payable as National Insurance Contributions under this Act shall be recoverable as debts due to the Board and without prejudice to any other remedy may be recovered summarily as a civil debt.”.

29. The Act is amended in section 71 by deleting the Section 71 amended words “a penalty of five hundred dollars or three months imprisonment or both” and substituting the words “a penalty of one thousand dollars or six months imprisonment”.

30. The Act is amended by substituting for the words Chief Financial Officer “Financial Comptroller” wherever these words occur in the Act the words “Chief Financial Officer”.

31. The Act is amended in the Second Schedule by Second Schedule amended inserting after “Table A”, “Table B” and “Table C” as set out in the Schedule to this Act.

32. The Act is amended by inserting after section 72 Sections 73 and 74 inserted the following sections:

“Pending proceedings 73. Every pending proceeding commenced by the Executive Director before the commencement of this Act in any court for the recovery of any sums due to the Board under the Act may be continued and completed by the Board.

Act to bind State 74. This Act shall bind the State.”.

33. The amendment made to the Act by section 4(a) Savings of this Act shall for all purposes be deemed to have come into force on the date of commencement of the Act.

SCHEDULE

[Section 54A (2)]

TABLE B

Earnings Class in which Contributions have been made prior to 11th August, 1980 and value of Contributions before 1980		Earnings Class on or after 3rd May, 1999 and value of Contributions	
I	0.90	I	8.79
II	1.50	I	8.79
III	1.95	I	8.79
IV	2.55	I	8.79
V	3.45	I	8.79
VI	4.35	I	8.79
VII	5.55	II	12.99
VIII	7.35	III	17.25

TABLE C

Earnings Class in which Contributions have been made on or after 11th August, 1980 and value of Contributions made after 11th August, 1980		Earnings Class on or after 3rd May, 1999 and value of Contributions	
I	3.30	I	8.79
II	4.80	I	8.79
III	6.30	I	8.79
IV	8.25	I	8.79
V	10.50	II	12.99
VI	13.50	III	17.25
VII	17.25	IV	21.84
VIII	19.35	V	27.30

Passed in the Senate this 20th day of April, 1999.

N. COX

Clerk of the Senate

Passed in the House of Representatives this 26th day of April, 1999.

D. DOLLY

Acting Clerk of the House

House of Representatives amendment agreed to by the Senate this 27th day of April, 1999.

N. COX

Clerk of the Senate